

IN THE SENATE

SENATE BILL NO. 1353

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ABORTION AND END OF LIFE CARE; AMENDING CHAPTER 6, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-611, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FREEDOM OF CONSCIENCE FOR HEALTH CARE PROFESSIONALS, TO PROVIDE IMMUNITY FROM LIABILITY, TO PROVIDE AN EXCEPTION FOR EMERGENCIES AND TO PROHIBIT DISCRIMINATION; AND PROVIDING SEVERABILITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 6, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-611, Idaho Code, and to read as follows:

18-611. FREEDOM OF CONSCIENCE FOR HEALTH CARE PROFESSIONALS. (1) As used in this section:

(a) "Abortifacient" means any drug that causes an abortion as defined in 18-604, Idaho Code, emergency contraception or any drug the primary purpose of which is to cause the destruction of an embryo or fetus.

(b) "Conscience" means the religious, moral or ethical principles sincerely held by any person.

(c) "Embryo" means the developing human life from fertilization until the end of the eighth week of gestation.

(d) "Fetus" means the developing human life from the start of the ninth week of gestation until birth.

(e) "Health care professional" means any person licensed, certified or registered by the state of Idaho to deliver health care.

(f) "Health care service" means an abortion, dispensation of an abortifacient drug, human embryonic stem cell research, treatment regimens utilizing human embryonic stem cells, human embryo cloning or end of life treatment and care.

(g) "Provide" means to counsel, advise, perform, dispense, assist in or refer for any health care service.

(h) "Religious, moral or ethical principles," "sincerely held," "reasonably accommodate" and "undue hardship" shall be construed consistently with Title VII of the federal civil rights act of 1964, as amended.

(2) No health care professional shall be required to provide any health care service that violates his or her conscience.

(3) Employers of health care professionals shall reasonably accommodate the conscience rights of their employees as provided in this section, upon advanced written notification by the employee. Such notice shall suffice without specification of the reason therefor. It shall be unlawful for any employer to discriminate against any health care professional based upon his or her declining to provide a health care service

1 that violates his or her conscience, unless the employer can demonstrate
2 that such accommodation poses an undue hardship.

3 (4) No health care professional or employer of the health care
4 professional shall be civilly, criminally or administratively liable for
5 the health care professional declining to provide health care services that
6 violate his or her conscience, except for life-threatening situations as
7 provided for in subsection (6) of this section.

8 (5) The provisions of this section do not allow a health care
9 professional or employer of the health care professional to refuse to
10 provide health care services because of a patient's race, color, religion,
11 sex, age, disability or national origin.

12 (6) If a health care professional invokes a conscience right in a
13 life-threatening situation where no other health care professional capable
14 of treating the emergency is available, such health care professional shall
15 provide treatment and care until an alternate health care professional
16 capable of treating the emergency is found.

17 (7) Nothing in this section shall affect the rights of conscience
18 provided for in section 18-612, Idaho Code, to the extent that those rights
19 are broader in scope than those provided for in this section.

20 SECTION 2. The provisions of this act are hereby declared to be
21 severable and if any provision of this act or the application of such
22 provision to any person or circumstance is declared invalid for any reason,
23 such declaration shall not affect the validity of the remaining portions of
24 this act.